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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.557 OF 2007
IN
CRIMINAL APPEAL NO.457 OF 2007

Khanderao Dnyanu Sawant ... Appellant

V/s.

The State of Maharashtra & Anr. ... Respondents

Mr.B.A. Walimbe for Appellant
Mr.P.A. Pol, APP, for Respondent

CORAM: **D.G. DESHPANDE &**
SMT.NISHITA MHATRE, JJ.

DATED: **JUNE 5, 2007**

P.C.:

. Learned Advocate for the accused seeks permission to amend his bail application for deleting respondent No.2. Permission granted. Respondent No.2 deleted from the application.

2. Heard learned Advocate for the accused, who has been convicted under section 302 of the Indian Penal Code on a private complaint. Earlier, it was a case of an accident. The complainant filed proceedings for compensation before the Motor Accidents Claims Tribunal. He could not prove the accident because he did not have the particulars of the motor cycle. His claim was dismissed. He then filed the present case.

3. The accused was on bail throughout the trial.

There were two eye witnesses but none of them were examined, according to the advocate for the accused. The enmity alleged was about 10 years before the incident.

4. A perusal of para 11 of the judgment clearly shows that the conviction is based not on the facts but on surmises. These observations of ours are only for the purpose of bail. They may not be taken into consideration when the appeal is heard on merits. Therefore, the Criminal application is allowed. The accused be released on a P.R. bond of Rs.7,500/- (Rupees Seven thousand and five hundred only) with one solvent surety in the like amount.

5. Application is disposed off accordingly.

(D.G. DESHPANDE, J.)

(SMT.NISHITA MHATRE, J.)